



29 June 1988
OCA 2190-88

MEMORANDUM FOR: Deputy Director for Administration
Director, Office of Security
ADGC/AL&MS/OGC
C/ICAD/OGC
C/ALD/OGC
C/LIT/OGC

OGC

FROM:

Legislation Division
Office of Congressional Affairs

SUBJECT:

Senate Action on Grassley Amendment

1. On 27 June 1988, the Senate passed H.R. 4775 (the Treasury, Post Office and General Government Appropriations bill for Fiscal Year 1989) adopting the amendment of the Senate Appropriations Committee which had deleted the Fiscal Year 1989 version of the so-called Grassley Amendment (copy attached). There was no move on the Senate floor to reinsert the provision.

2. The Senate action now sends the bill to conference where, we are advised, the Senate will oppose any House effort to reinsert the amendment.

Attachment
As stated

June 22, 1988

CONGRESSIONAL RECORD — SENATE

S 8385

bled when called to order by the Presiding Officer (Mr. WIRTH).

BRIBERY ALLEGATIONS IN DEFENSE PROCUREMENT PRACTICES AND THE INTEGRITY IN POST EMPLOYMENT ACT OF 1987

Mr. THURMOND. Mr. President, since last week, the Nation has been deluged with stories speculating on the extent of the problems the Pentagon is now facing in its defense procurement practices. Innuendo and hyperbole have, unfortunately, supplanted facts in many instances. With that in mind, at this juncture it may be wise to assess where we may be going in this sure-to-be-lengthy investigation.

What we now know is some officials in the Pentagon and in various defense contracting firms allegedly engaged in practices that range from unethical to highly illegal. Some Government officials and various top defense consultants are believed to have practiced various forms of fraud, bribery and conspiracy to obtain lucrative Government contracts. One of the frailties of many—simply greed—appears to have triggered this scandal.

Reams of evidence already have been obtained, including taped conversations from a series of court-approved wiretaps that will prove voluminous when transcribed and untold numbers of documents seized from more than three dozen offices. A grand jury has been impaneled and confessions undoubtedly will follow as the judicial process moves forward.

It is imperative that any and all individuals found to have engaged in this type of illegal activity be prosecuted, both swiftly and to the fullest extent of the law. We should not hesitate to throw the book at any individual engaged in these heinous actions that are nothing short of an affront to our system of democracy.

Where we uncover Government contracts that have been obtained illegally, there is one significant step that should be taken. As I outlined in letters today to Attorney General Edwin Meese and Defense Secretary Frank Carlucci, I am now recommending the suspension of any Government contracts that are proven to have been obtained by illegal means. In these cases, adequate fines or penalties should be levied or these suspended contracts should be reopened to competitive bidding—or both. Some may view this recommendation as Draconian. We must however, ensure that all appropriate steps are taken to prevent this from occurring again.

With the current atmosphere surrounding the scandal being cloaked in an air of sensationalism, little is to be gained by reckless or inaccurate accusations, but a complete and thorough investigation must be made to obtain the facts and arrive at the truth.

This inquiry can succeed only if we proceed in an unbiased, objective manner that is void of backbiting and dramatic posturing.

As I said on the floor of this Chamber last Friday, influence peddling is nothing new to this town. Its ramifications can be extremely serious when past or present Federal officials use inside information they gained in Government service to profit financially.

We all understand that some form of influence peddling is the underpinning in the current affair. It is for this reason that I again urge the House of Representatives to expeditiously approve a strong version of my Integrity in Post Employment Act that the Senate passed unanimously earlier this year. My measure by itself would not have kept the current scandal from occurring, but it would help close the so-called revolving door.

Influence peddling is influence peddling, whether it be in the Pentagon or the plush K Street offices of myriad lobbyists whose financial futures are indelibly tied to the access they gained from past Government services. Let us show the Nation now, for the first time in history, that we will finally pass a tough measure to curb influence peddling among former Government officials—including Members of Congress.

Let us move forward with all available resources to get to the root of the current problem. Let us not hesitate to make stern examples of the price individuals and companies will pay when they choose to sell out their country for a fast buck.

Mr. President, I yield the floor.

Mr. DeCONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4775, the Treasury-Postal Service bill.

Mr. DOLE. Mr. President, I have not been here. I have been in the drought meeting. I understand the problems that may have been involved have been temporarily resolved on this side. I am informed by my staff. Therefore, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.
The assistant legislative clerk read as follows:

A bill (H.R. 4775) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in *italic*.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I

[OFFICE OF THE SECRETARY

[SALARIES AND EXPENSES

[For necessary expenses of the Office of the Secretary, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed \$22,000 for official reception and representation expenses; not to exceed \$200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed \$573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; \$59,618,000.

[INTERNATIONAL AFFAIRS

[For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed \$2,000,000 for official travel expenses; and not to exceed \$73,000 for official reception and representation expenses; \$24,063,000.]

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs and improvements of, and purchase of commercial insurance policies for real properties leased or owned overseas, when necessary for the performance of official business; not to exceed \$95,000 for official reception and representation expenses; not to exceed \$200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed \$573,000 to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; \$83,000,000.

FEDERAL LAW ENFORCEMENT

TRAINING CENTER

SALARIES AND EXPENSES

[For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen

S 8396

CONGRESSIONAL RECORD — SENATE

June 22, 1988

to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

Sec. [620] 618. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500, 99-591, and 100-202 may continue and may cover additional employees in fiscal year 1989, the Office of Personnel Management may continue to operate by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Office may provide by regulation for such exceptions from the provisions of section 7351 of title 5 as the Office may determine appropriate for the transfer of leave under this section. The Veterans' Administration may operate a similar program for employees subject to section 4108 of title 38, United States Code. The programs operated under this section shall expire at the end of fiscal year 1989, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

[EMPLOYEE DISCLOSURE AGREEMENTS]

[Sec. 621. No funds appropriated in this or any other Act for fiscal year 1989 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term *classifiable*;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law;

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)-(5) of this section.

[Sec. 622. (a)(1)(A). Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent, except for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) Each increase in a pay rate or schedule which takes effect pursuant to subparagraph (A) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(2) Notwithstanding any other provision of law, amounts appropriated in order to provide for the adjustment under paragraph (1) shall cover not to exceed 50 percent of the increase in total pay for fiscal year 1989.

(3) For the purpose of this subsection—

(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by the statutory pay systems for service performed during such year;

(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this subsection during such year; and

(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b)(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4 percent effective on January 1, 1989.]

Sec. 619. (a)(1)(A). Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent.

(B) Each increase in a pay rate or schedule which takes effect pursuant to subparagraph (A) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(2) For the purpose of this subsection—

(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by the statutory pay systems for service performed during such year;

(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this subsection during such year; and

(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b)(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4 percent effective on January 1, 1989.

(c) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any Members of the United States Congress.

[Sec. 623. Effective September 1, 1989, none of the funds made available to the Department of the Treasury by this Act shall be used to store, protect, maintain, own, hold or otherwise control more than 35,000,000 fine troy ounces of silver.

[Sec. 624. Effective September 1, 1990, none of the funds made available to the Department of the Treasury by this or any other Act with respect to any fiscal year shall be used to store, protect, maintain, own, hold or otherwise control more than 30,000,000 fine troy ounces of silver.

[Sec. 625. Effective September 1, 1991, none of the funds made available to the Department of the Treasury by this or any other Act with respect to any fiscal year shall be used to store, protect, maintain, own, hold or otherwise control more than 25,000,000 fine troy ounces of silver.

[Sec. 626. The Secretary of the Treasury may reduce the amount of silver required to be sold pursuant to this Act if he makes a written determination to the Congress that such a sale will severely disrupt the domestic market for silver.]

Sec. 620. Notwithstanding any other provision of law, no Executive Branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

Sec. 621. Employees currently performing stockpile management and related functions in the Federal Property Resources Service, General Services Administration, pursuant to the Strategic and Critical Materials Stockpiling Act shall continue to perform these functions notwithstanding enactment of any amendments to this Act placing the direct functional responsibilities in another Federal department or agency. Any of these employees transferred from the Federal Property Resources Service, General Services Administration, to another Federal department or agency pursuant to law shall not be subject to agency reduction-in-force procedures nor shall they be reduced in classification or compensation for two years after such transfer, except for cause. A formal plan implementing these provisions shall be submitted to the House and Senate Committees on Appropriations by the recipient agency prior to any actual transfer that may be mandated.

Sec. 622. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as

the total amount for such contracts is obligated in the year for which the funds are appropriated.

Sec. [627] 623. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 99-306 and that will be available under the procurement by the Administrator of General Services known as "PTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "PTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and services procured by the Administrator of General Services as part of the procurement known as "PTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the PTS2000 procurement.

[Sec. 628. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the Federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.]

Sec. 624. Notwithstanding 31 U.S.C. 1346 or section 608 of this Act, funds made available for fiscal year 1989 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive Order No. 12472 (April 3, 1984).

Sec. 625. Subsection (e)(1) of section 1105 of title 31, United States Code, is amended by deleting the material beginning "In addition, the analysis" through the end of subsection (e)(1).

Sec. 626. (a) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of 18,000 pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 31a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

(A) has previously been transferred in the interest of the Government from one official station or agency to another for permanent duty as a career appointee in the Senior Executive Service; and

(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or of chapter 84 of this title."

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

Sec. 627. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1989".

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, today I am pleased to bring before the Senate H.R. 4775, the fiscal year 1989 Treasury, Postal Service and General Government appropriations bill, the fourth regular appropriations bill to reach the Senate floor this year.

Mr. President, the bill, as reported, calls for new budget authority of \$15,917,541,000, which is \$196,257,000 below the House-passed bill. This bill is also \$246,211,000 below the budget estimates, when you assume the original Postal Service request for revenue forgone in that estimate.

The bill is also \$8.8 million below its 302(b) allocation for budget authority and within \$1 million of its outlay ceiling.

Mr. President, it was no easy path from subcommittee markup through full committee and on to the Senate floor this afternoon. The appropriations bill has been hit with last-minute, prior-year outlays from the 050 defense function attributed to an account that is no longer handled in this particular bill. We have gone through shifting scorekeeping adjustments as the budget resolution conference worked its way to its conclusion.

Literally 2 minutes before full committee markup, we received a revised scoring of our bill from the Congressional Budget Office that changed our total and forced us to make last-second cuts in the bill that already faced a \$50 million cut in outlays. Then just yesterday, as we prepared to go to the floor, we received another scorekeeping report from the Budget Committee that differed from the one we received following full committee markup from the CBO.

We have to find a way to inject some kind of degree of certainty into the scoring of our appropriations bills. It is tough enough to craft a bill in these rigid fiscal times, but to consistently have to guess whether or not your bill is in compliance with a moving target makes it virtually impossible.

I hope that next year we can find a way to bring this matter under some kind of control. Despite my concerns about the scorekeeping process, I believe that the Treasury-Postal Service bill is an excellent bill. It deserves the overwhelming support of the Senate.

In putting this bill together, Senator DOMENICI, my ranking member, and I have attempted to balance the program, project, and language requests with the President with the legitimate differences of opinion and priorities that we have with the administration on certain items. We have attempted to strike a number of provisions opposed by the President that were included in the House-passed bill, while trying to accommodate the priority requests of Members of the Senate that may differ from the priorities of the President. And we have attempted to fund the important, basic governmental functions at Treasury, GSA, and other agencies. I believe that we have done so successfully.

DRUG ENFORCEMENT ITEMS IN THE BILL

Mr. President, there has been much finger pointing at the Congress in recent weeks for cutting the President's drug enforcement budgets. I am pleased to say to my colleagues that we have provided the President's budget request or exceeded his request for most, if not all, of the President's primary drug enforcement programs in this bill. We have provided the full budget request for the Customs Air Drug Interdiction Program. We have provided sufficient funds, not included in the President's request, to annualize the cost of the drug enforcement and other positions provided in the fiscal year 1988 continuing resolution for the Customs Service. We have provided an additional \$31 million over the President's request for the successful Armed Career Criminal Program at the Bureau of Alcohol, Tobacco, and Firearms—a program that is intimately connected with BATF's effort to go after major, dangerous drug traffickers and trafficking organizations operating in this country and abroad. We have provided an increase of approximately \$28 million over the President's request to beef up the Federal Law Enforcement Training Center and to allow this vital drug enforcement training center to meet its snowballing training workload in the aftermath of the 1986 drug bill.

Mr. President, that is a very important point. The 1986 drug bill authorized a number of new positions in law enforcement agencies that are trained at the Federal Law Enforcement Training Center. In fact, they have been swamped and unable to process all of these people to be placed in the different law enforcement agencies—particularly, the Border Patrol. This bill meets that problem by authorizing and appropriating money for additional personnel and training so that they can get caught up.